



→ Jeff Kern

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Jeff Kern is a partner in the Governmental Practice and serves as a Managing Partner of Sheppard Mullin's New York office. Jeff also heads the firm's Securities Enforcement & Litigation Team and is a charter member of the Blockchain & Digital Assets Team.

Areas of Practice

Jeff's practice encompasses white collar defense, securities and insurance regulation, compliance, and litigation as well as internal investigations. He represents broker-dealers and associated individuals who are the focus of SEC, FINRA and other regulatory investigations and provides guidance in the FINRA membership application and business expansion process. He has particular expertise with SRO litigation, corporate investigations and investigative testimony. He also has experience assisting broker-dealers obtain approval to conduct a digital assets business.

In addition, Jeff is a seasoned litigator who has conducted over 70 trials and SRO disciplinary hearings. He has also conducted numerous criminal, regulatory and private sector investigations, including those involving bank, securities and immigration fraud, tax evasion, the False Claims Act, asset forfeiture, wage and hour violations, and Food & Drug Administration compliance. His practice also encompasses government and regulatory subpoena response. He speaks frequently on litigation and investigative strategy and has appeared numerous times in print and on network television as a legal commentator.

Before joining Sheppard Mullin, Jeff served as Senior Regional Counsel in FINRA's Department of Enforcement and Senior Trial Counsel in the New York Stock Exchange Enforcement Division. In both positions, he investigated and prosecuted violations of NYSE, NASD, FINRA and SEC rules and federal securities laws. His work at the NYSE and FINRA included investigations, trials and appeals involving Rule 10b-5 fraud, insider trading, market manipulation, mutual fund switching, supervision, research, advertising, private placements, anti-money laundering, financial reporting, sales practice violations, outside business, conversion, and trading improprieties committed on the Exchange Floor.

At FINRA, Jeff served as the District 10 liaison to the greater New York law enforcement community and oversaw the training program for Member Regulation staff in New York and Long Island. He was also a frequent presenter at FINRA conferences and training exercises. In November 2010, Jeff received the FINRA Outstanding Achievement Award for his work on a complex investigation involving a prominent financial commentator and US Senate candidate.

Prior to FINRA, Jeff spent 11 years in the Brooklyn District Attorney's Office, prosecuting and investigating homicides and other high profile cases and serving as Director of Training and Chief of the Investigations Bureau. He has served as Managing Director and Regional Counsel for Decision Strategies, an international investigative services provider, and as Senior Trial Consultant for DOAR Communications, a litigation consulting firm.

From 1993 to 2013, Jeff served as an adjunct professor at John Jay College of Criminal Justice, teaching a curriculum he developed on the use of strategic planning and persuasive presentation in the law. He is also a volunteer instructor in Cardozo Law's Intensive Trial Advocacy Program and a guest lecturer at Columbia, Fordham, Brooklyn and St. John's Law Schools.

Jeff oversees the firm's New York Summer Associate Program and is a member of the office's Diversity & Inclusion Committee.

Honors

Best Lawyers, Criminal Defense - White Collar, 2020-2021

Super Lawyers, Securities Litigation, 2018

Legal 500, Government Contracts, 2017

2010 FINRA Outstanding Achievement Award

Articles

- The Criminal Practitioner's Guide to Representing Financial Professionals
New York Law Journal, 11.12.2018
- Sheppard Mullin Discusses SEC's More Streamlined Enforcement Agenda
The Numbers Don't Lie: The SEC Pursues a More Streamlined Enforcement Agenda
Columbia Law School's Blue Sky Blog, 12.14.2017
- Not So Fast: Death of Labor Department Fiduciary Rule May Not Be Imminent
New York Law Journal, 12.13.2016
- FINRA Enforcement Actions--Who's Afraid of the Big Bad Wolf?
INSIGHTS, 09.2016
- NYSE Returns To the Regulatory Beat
New York Law Journal, 02.08.2016
- The Bank Secrecy Act: A Trap For The Unwary Businessman
The Metropolitan Corporate Counsel, 07.2014
- Building Constructive Relationships with Financial Regulators
The Metropolitan Corporate Counsel, 05.01.2011
- How to Work with a Due Diligence Provider
The Deal, 10.13.2003

Corporate & Securities Law Blog Posts

- "NYAG Bill Seeks to "Bring Order" to Crypto Industry," May 10, 2023
- "Financial Crimes Makes Debut in FINRA Annual Priorities Preview," January 18, 2023
- "Second Circuit Limits Scope of SEC Whistleblower Incentives," August 4, 2022
- "Third Circuit Reversal a Pyrrhic Win for SEC in Ongoing Statute of Limitations Saga," October 16, 2019
- "SEC Issues Risk Alert on Customer Privacy Safeguards," April 29, 2019
- "FINRA ANNOUNCES 2019 REGULATORY PRIORITIES," January 30, 2019
- "SEC Enforcement's Annual Report Prioritizes Retail Investors, Cryptocurrency, Cybercrime, and Individual Accountability," November 28, 2018
- "Crypto Firms Make Inroads with State and Federal Regulators," October 30, 2018
- "Eleventh Circuit Holds That a Corporation Is Not Distinct From Its Agents For Purposes of a RICO Enterprise, Following Sister Circuits," September 16, 2016
- "SEC Takes Aggressive Approach to Fortify Dodd-Frank's Whistleblower Rules," April 20, 2015
- "SEC Requires FINRA Registration for High Frequency Traders," March 27, 2015
- "FINRA Issues Guidance Notice on Confidentiality Provisions in Settlement Agreements and the Arbitration Discovery Process," November 12, 2014
- "Second Circuit Defines "Customer" for Mandatory FINRA Arbitration," September 4, 2014
- "Second Circuit Overturns District Court's Rejection of SEC-Citigroup Fraud Settlement," July 7, 2014
- "Second Circuit Applies *Morrison v. National Australia Bank* to Allow Certain Extraterritorial Application of RICO," May 12, 2014
- "Second Circuit Upholds SEC's Authority to Obtain Disgorgement from Non-Trading Insider Profits Earned by Portfolio Fund from Insider Trading," March 12, 2014
- "Second Circuit Applies *Morrison* to Criminal Prosecution Under Section 10(b) and Rule 10b-5," October 23, 2013

Government Contracts, Investigations & International Trade Blog Posts

- "SEC Tightens Alternative Trading Platform Oversight," September 26, 2018
- "New York's AG Enters the Cryptocurrency Ring as Federal, State Authorities Find Regulatory Footing," April 30, 2018
- "Supreme Court Resolves Circuit Split on Scope of Whistleblower Protections," February 28, 2018
- "The Numbers Don't Lie: The SEC Pursues a More Streamlined Enforcement Agenda," December 1, 2017
- "FINRA Fetes Emerging Blockchain Technology at Industry Conference," July 27, 2017
- "Supreme Court Deals Blow to SEC By Applying Five-Year Statute of Limitations to Disgorgement Remedies in SEC Enforcement Actions," June 28, 2017
- "Financial Regulators Take Note: The Supreme Court's Newest Member is a Tough Taskmaster," April 26, 2017
- "FINRA Updates Its Sanction Guidelines," April 26, 2017
- "New York State Department of Financial Services Cybersecurity Regulation Poised to Reshape Existing Regulatory Landscape," January 31, 2017

- "SEC Steps Up Cybersecurity Enforcement with \$1 Million Fine Against Morgan Stanley," July 7, 2016
- "Forward to the Past: NYSE Returns to Regulation," November 23, 2015

Eye on Privacy Law Blog Posts

- "New York State Department of Financial Services Proposes Cybersecurity Regulations for Financial Services Companies," September 21, 2016

Law of the Ledger: Blockchain and Cryptocurrency Blog

- "Crypto Firms Make Inroads with State and Federal Regulators," November 7, 2018

Media Mentions

Wash, Fine, Repeat? SEC Enters Fray of Agencies Monitoring Companies' AI Use
Legaltech News, 03.21.2024

Clear Channel to Pay More Than \$26 Million to Resolve SEC Charges Related to Chinese Subsidiary Conduct
Anti-Corruption Report, 12.06.2023

FINRA Authority Fight Carries Weight But May Be a 'Hard Ask'
Bloomberg Law, 10.11.2023

SEC's Fraudulent 401(k) Coin Scam Case Going to Jury Trial
Ignites, 09.13.2023

Law360's 2023 New York Editorial Advisory Board
Law360, 08.31.2023

Massachusetts Court's Robinhood Ruling Puts State's 'Fiduciary' Tag on Broker-Dealers
Financial Advisor, 08.28.2023

Advisor Charged with Annuity Scam Says SEC Is Outside Its Authority
Financial Advisor IQ 07.24.2023

SEC Steps Up Enforcement Actions Against Cryptocurrencies
Cybersecurity Law Report, 06.28.2023

8 New York Managing Partners On Their Priorities For 2023
Law360, 01.03.2023

Trump Call For SEC To Study Reporting Rules Sparks Debate
Law360, 08.17.2018

Clayton Mulls SEC Insider Trading Rulemaking Amid Equifax Fears
Bloomberg Law, 09.26.2017

FINRA's Blockbuster 2014 Has Attys Wondering About Sequel
Law360, 02.20.2015

New Drugs, Deals Put Pharma Under Insider Trading Microscope
Law360, 11.20.2012

The Decision to Take on a Regulator
Wealth Manager - WSJ, 11.16.2012

Finra Disciplinary Actions, Fines Rise In 2011
Dow Jones Advisor, 12.19.2011

Tell Your Firm About Outside Work
Dow Jones Advisor, 11.21.2011

Speaking Engagements

"Luncheon Spotlight Address: From the Office of the Whistleblower," A.C.E.S. Compliance Summit, April 18, 2017

"How Does Boston Bombing Compare to Zodiac Case?" Bloomberg TV, April 19, 2013

"Labor & Employment Law Update: Spring 2011 Seminar," New York, New York, May 19, 2011

"Diversity in Law Practice 2011: Legal Update, Inclusion Strategies, and Work-Life Balance," Practising Law Institute, New York, NY, January 25, 2011

"Litigating Anti-Money Laundering Cases," 2010 FINRA Enforcement Conference, Alexandria, VA, November 2, 2010

"Taking On-the-Record Testimony," 2008 FINRA Market Regulation Conference, Rockville, MD, September 25, 2008

"So, You Want to be a Plumber? Investigating PIPES Violations," 2007 FINRA Enforcement Conference, Washington, DC, October 21, 2007

"Supporting Securities Litigation: A Behind the Scenes Look at How the Big Dogs Win Their Cases," Brooklyn Law School Securities & Market Regulation Program, Brooklyn, New York, March 2007

"Investigative Interviewing," Nelson A. Rockefeller College of Public Affairs and Policy Professional Development Program, New York, NY, April 26, 2006

"How to Use Jury Consultants to Help You Win at Trial," New York City Bar, New York, NY, October 25, 2005

"Using Technology in SRO Disciplinary Proceedings," NYSE CLE Series, New York, NY, November 2004

"Electronic Techniques for Communicating to Juries," New York State Bar Association, Commercial Litigation Section, Annual Conference, Saratoga, NY, October 9, 2004

"Your Pants Are on Fire! How to Detect Deception in Employment Interviews," Legg Mason Annual Management Meeting, Baltimore, MD, October, 2002

"In the Cross-Hairs: Taking Respondent Testimony in NYSE Disciplinary Hearings," NYSE CLE Series, New York, NY, June 2002

"Prosecutions in Developing Democracies," US Department of Justice and Department of State Overseas Prosecutorial Development, Assistance & Training Program, Tirana, Albania, June 2001

Events

Securities Enforcement Forum 2023
Managing SEC-Related Criminal Investigations and Prosecutions
10.25.2023

Labor & Employment Law Update - New York
Spring 2017
05.23.2017

Financial Regulation and Enforcement Symposium 2013
A Conversation with Regulators, Prosecutors, and Blue Sky Authorities
New York Athletic Club, 05.08.2013

Labor & Employment Law Update - Spring 2011
Sheppard Mullin New York, 05.19.2011

Financial Regulation and Enforcement Symposium 2011
A Conversation With the Agencies
New York Athletic Club, 180 Central Park South, New York, NY 10019, 03.10.2011

Memberships

New York City Bar, Criminal Advocacy Committee
Chair, Board of Directors of the Kings County District Attorney Alumni Association

Podcasts & Webinars

Nota Bene Episode 10: Testing the Temperament of Current Financial Securities Regulation with Jeff Kern
11.07.2018

Practices

Governmental Practice
Litigation
Securities Enforcement
White Collar Defense and Corporate Investigations

Industries

Blockchain and Fintech

Financial Services

Insurance

Education

J.D., Duke University School of Law, 1987, Executive Committee, Moot Court Board

B.A., Boston College, 1984, *magna cum laude*

Admissions

New York

Massachusetts

United States District Court, Southern District of New York

United States District Court, Eastern District of New York